

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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ROBERT R. GAGLIARDI and	:	
ROSITA GAGLIARDI,	:	Case No. 1:23-cv-07454-JGLC
Plaintiffs,	:	
v.	:	
	:	
PRAGER METIS CPAS LLC and	:	
PHILIP D'ANGLEO,	:	
Defendants.	:	
-----	x	

ANSWER TO COUNTERCLAIMS & AFFIRMATIVE DEFENSES

Plaintiffs/Counter Defendants ROBERT R. GAGLIARDI and ROSITA GAGLIARDI, by and through undersigned counsel, hereby submit their Answer to the Defendants' counterclaim (Doc. # 62) together with their Affirmative Defenses as follows:

1. Admit.
2. Deny. Mr. Gagliardi is a U.S. citizen residing in the U.K., Mrs. Gagliardi is an Italian citizen residing in the U.K.
3. Admit.
4. Denied.
5. Paragraph 5 of the Counterclaim asserts a legal conclusion for which no response is required.
To the extent a response is required, the Gagliardis deny the allegations.
6. Paragraph 6 of the Counterclaim asserts a legal conclusion for which no response is required.
To the extent a response is required, Mr. and Mrs. Gagliardi deny the allegations.
7. Admit.
8. Denied.
9. Denied.

10. Denied.

11. Paragraph 11 of the Counterclaim asserts a legal conclusion for which no response is required. To the extent a response is required, Mr. and Mrs. Gagliardi deny the allegations.

12. Denied.

13. Denied.

14. Denied.

AFFIRMATIVE DEFENSES

First Affirmative Defense: the counterclaim fails to state a claim upon which relief can be granted.

Second Affirmative Defense: Defendants' claims are barred, in whole or in part, by the applicable statute of limitations.

Third Affirmative Defense: Defendants' claims are barred, in whole or in part, by the doctrines of waiver, estoppel, and unclean hands.

Fourth Affirmative Defense: Any alleged damages sustained by any of the Defendants were not attributable to any alleged omission or failure by the Plaintiffs, but rather to actions taken by Defendants.

Fifth Affirmative Defense: Defendants' counterclaim should be dismissed because any acts or omissions of the Plaintiffs were not the proximate cause of Defendants' damages.

Sixth Affirmative Defenses: To the extent that Defendants have suffered damages or loss, which Plaintiffs deny herein, Defendants have failed to mitigate their alleged damages.

Seventh Affirmative Defense: Defendants' claims are barred, in whole or in part, because of failure of consideration.

Eighth Affirmative Defense: Defendants' claims are barred, in whole or in part, because no benefit was conferred (unjust enrichment) by the Defendants to the Plaintiffs.

Ninth Affirmative Defense: Defendants' claims are barred, in whole or in part, because Defendants failed to act in accordance with their regulatory obligations under 31 C.F.R. § 10.0, *et seq.*

Tenth Affirmative Defense: to the extent that Plaintiffs may have separate and/or additional defenses of which they are not presently aware, but which may be revealed in discovery, Plaintiffs reserve the right to assert any such separate and/or additional defenses by amendment to this answer.

Respectfully submitted,

Dated: August 2, 2024

By: /s/ Joseph A. DiRuzzo, III

Joseph A. DiRuzzo, III

NY Bar # 4417853

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on August 2, 2024, I electronically filed the foregoing Notice of with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to counsel of record.

By: /s/ Joseph A. DiRuzzo, III

Joseph A. DiRuzzo, III